

European Union



COMMITTEE OF THE REGIONS

- 18 NOVEMBER 2003 -

CODE OF GOOD ADMINISTRATIVE BEHAVIOUR

DECISION ON A CODE OF GOOD ADMINISTRATIVE BEHAVIOUR

THE BUREAU,

HAVING REGARD TO the Rules of Procedure of the Committee of the Regions, in particular Rules 35 and 62 thereof,

HAVING REGARD TO the own-initiative inquiry of 14 April 2000 conducted by the European Ombudsman into the existence and the public accessibility, in the different Community institutions and bodies, of a code of conduct on good administrative behaviour for officials in their relations with the public,

HAVING REGARD TO the special report of the European Ombudsman of 14 April 2000 (C5-0438/2000),

HAVING REGARD TO the European Parliament Resolution of 6 September 2001 (C5-0438/2000 - 2000/2212 (COS)),

WHEREAS the Amsterdam Treaty explicitly introduced the concept of openness into the Treaty on European Union by stating that it marked a new stage in the process of creating an ever closer union in which decisions are taken as openly as possible and as closely as possible to the citizen,

WHEREAS principles of good behaviour are useful both for officials, as they set out in a clear and detailed manner the rules they must observe when dealing with the public, and for citizens, providing them with information on the type of conduct that they are entitled to expect in their dealings with the CoR,

WHEREAS, in accordance with the special report drawn up by the European Ombudsman on 14 April 2000, principles of this kind can only be effective if they are presented in a document that is easily accessible to the public and therefore published in the form of a decision in the Official Journal of the European Communities,

WHEREAS, in accordance with the wishes of the European Parliament (Resolution C5-0438/2000 - 2000/2212 (COS)), it is of the utmost importance that the same code of good administrative behaviour apply to all European institutions, bodies and agencies,

WHEREAS it is therefore desirable to establish, in a single document, the principles of good administrative behaviour that must be observed by officials in their relations with the public and to make this document accessible to the public,

HAS DECIDED:

to adopt the "Code of good administrative behaviour" appended hereto.

Brussels,
For the Bureau, the President

Albert Bore

CODE OF GOOD ADMINISTRATIVE BEHAVIOUR

Article 1 - General provisions

In their relations with the public, the staff of the Committee of the Regions (hereafter also referred to as "the Committee") shall respect the principles which are laid down in this Code of good administrative behaviour, hereafter referred to as "the Code".

Article 2 - Personal scope of application

1. The Code shall apply to all officials and other servants to whom the Staff Regulations and the Conditions of employment of other servants apply, in their relations with the public. Hereafter the term official refers to both the officials and the other servants.

2. The Institution and its administration will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for them, such as persons employed under law contracts, experts on secondment from national civil services and trainees.

3. The public refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

4. For the purpose of the Code:

(a) the term "Official" shall mean an official or other servant of the European Communities.

Article 3 - Material scope of application

1. This Code contains the general principles of good administrative behaviour which apply to all relations between the Committee and its administration with the public, unless they are governed by specific provisions.

2. The principles set out in this Code do not apply to the relations between the Committee and its officials. Those relations are governed by the Staff Regulations.

Article 4 - Lawfulness

The official shall act according to law and apply the rules and procedures laid down in Community legislation. The official shall in particular take care that decisions which affect the rights or interests of individuals have a basis in law and that their content complies with the law.

Article 5 - Absence of discrimination

1. In dealing with requests from the public and in taking decisions, the official shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in a similar manner.

2. If any difference in treatment is made, the official shall ensure that it is justified by the objective relevant features of the particular case.

3. The official shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

Article 6 - Proportionality

1. In taking decisions, the official shall ensure that the measures taken are proportional to the aim pursued. The official shall in particular avoid restricting the rights of the citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation with the purpose of the action pursued.

2. When taking decisions, the official shall respect the fair balance between the interest of private persons and the general public interest.

Article 7 - Absence of abuse of power

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The official shall in particular avoid using those powers for purposes which have no basis in the law or which are not motivated by any public interest.

Article 8 - Impartiality and independence

1. The official shall be impartial and independent. The official shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.

2. The conduct of the official shall never be guided by personal, family or national interest or by political pressure. The official shall not take part in a decision in which he or she, or any close member of his or her family, has a financial interest.

Article 9 - Objectivity

When taking decisions, the official shall take into consideration the relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.

Article 10 - Legitimate expectations, consistency and advice

1. The official shall be consistent in his own administrative behaviour as well as with the administrative action of the Committee. The official shall follow the Committee's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case; these grounds shall be recorded in writing.

2. The official shall respect the legitimate and reasonable expectations that members of the public have in the light of how the Institution has acted in the past.

3. The official shall, where necessary, advise the public on how a matter which comes within his or her remit is to be pursued and how to proceed in dealing with the matter.

Article 11 - Fairness

The official shall act impartially, fairly and reasonably.

Article 12 - Courtesy

1. The official shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the official shall try to be as helpful as possible and shall reply as completely and accurately as possible to questions which are asked.

2. If the official is not responsible for the matter concerned, he shall direct the citizen to the appropriate official.

3. If an error occurs which negatively affects the rights or interests of a member of the public, the official shall apologise for it and endeavour to correct the negative effects resulting from his or her error in the most expedient way and inform the member of the public of any rights of appeal in accordance with Article 19 of the Code.

Article 13 - Reply to letters in the language of the citizen

The official shall ensure that every citizen of the Union or any member of the public who writes to the Committee in one of the Treaty languages receives an answer in the same language. The same shall apply as far as possible to legal persons such as associations (NGOs) and companies.

Article 14 - Acknowledgement of receipt and indication of the competent official

1. Every letter or complaint to the Committee shall receive an acknowledgement of receipt within a period of two weeks, except if a substantive reply can be sent within that period.
2. The reply or acknowledgement of receipt shall indicate the name and the telephone number of the official who is dealing with the matter, as well as the service to which he or she belongs.
3. No acknowledgement of receipt and no reply need be sent in cases where letters or complaints are abusive because of their excessive number or because of their repetitive or pointless character.

Article 15 - Obligation to transfer to the competent service of the Committee

1. If a letter or a complaint to the Committee is addressed or transmitted to a Directorate-General, Directorate or Unit which has no competence to deal with it, its services shall ensure that the file is transferred without delay to the competent service of the Committee.
2. The service which originally received the letter or complaint shall notify the author of this transfer and shall indicate the name and the telephone number of the official to whom the file has been passed.
3. The official shall alert the member of the public or organisation to any errors or omissions in documents and provide an opportunity to rectify them.

Article 16 - Right to be heard and to make statements

1. In cases where the rights or interests of individuals are involved, the official shall ensure that, at every stage in the decision making procedure, the rights of defence are respected.
2. Every member of the public shall have the right, in cases where a decision affecting his rights or interests has to be taken, to submit written comments and, when needed, to present oral observations before the decision is taken.

Article 17 - Reasonable time-limit for taking decisions

1. The official shall ensure that a decision on every request or complaint to the Committee is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public and for

answers to administrative notes which the official has sent to his superiors requesting instructions regarding the decisions to be taken.

2. If a request or a complaint to the Committee cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time-limit, the official shall inform the author thereof as soon as possible. In that case, a definitive decision should be notified to the author in the shortest time.

Article 18 - Duty to state the grounds of decisions

1. Every decision of the Committee which may adversely affect the rights or interests of a private person shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision.

2. The official shall avoid making decisions which are based on brief or vague grounds or which do not contain individual reasoning.

3. If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the official shall guarantee that he subsequently provides the citizen who expressly requests it with an individual reasoning.

Article 19 - Indication of the possibilities of appeal

1. A decision of the Committee which may adversely affect the rights or interests of a private person shall contain an indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the time-limits for exercising them.

2. Decisions shall in particular refer to the possibility of judicial proceedings and complaints to the Ombudsman under the conditions specified in, respectively, Articles 230 and 195 of the Treaty establishing the European Community.

Article 20 - Notification of the decision

1. The official shall ensure that decisions which affect the rights or interests of individual persons are notified in writing, as soon as the decision has been taken, to the person or persons concerned.

2. The official shall abstain from communicating the decision to other sources until the person or persons concerned have been informed.

Article 21 - Data protection

1. The official who deals with personal data concerning a citizen shall respect the privacy and the integrity of the individual in accordance with the provisions of Regulation (EC) No 45/ 2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.¹

2. The official shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non authorised persons.

Article 22 - Requests for information

1. The official shall, when he has responsibility for the matter concerned, provide members of the public with the information that they request. When appropriate, the official shall give advice on how to initiate an administrative procedure within his field of competence. The official shall take care that the information communicated is clear and understandable.

2. If an oral request for information is too complicated or too comprehensive to be dealt with, the official shall advise the person concerned to formulate his demand in writing.

3. If, because of its confidentiality, an official may not disclose the information requested, he or she shall, in accordance with Article 18 of this Code, indicate to the person concerned the reasons why he cannot communicate the information.

4. Further to requests for information on matters for which he has no responsibility, the official shall direct the requester to the competent person and indicate his name and telephone number. Further to requests for information concerning another Community institution or body, the official shall direct the requester to that institution or body.

5. Where appropriate, the official shall, depending on the subject of the request, direct the person seeking information to the service of the Committee responsible for providing information to the public.

Article 23 - Requests for public access to documents

1. The official shall deal with requests for access to documents in accordance with the rules adopted by the Committee and in accordance with the general principles and limits laid down in Regulation (EC) No 1049/ 2001.²

¹ OJ L 8/1, 12.1.2001.

² OJ L 145/43, 31.5.2001.

2. If the official cannot comply with an oral request for access to documents, the citizen shall be advised to formulate it in writing.

Article 24 - Keeping of adequate records

The Committee's departments shall keep adequate records of their incoming and outgoing mail, of the documents they receive, and of the measures they take.

Article 25 - Publicity for the code

The Committee shall take effective measures to inform the public of the rights they enjoy under this Code. If possible, it shall make the text available in electronic form, in the official languages of the European Union, on its website.

Article 26 - Right to complain to the European Ombudsman

Any failure of an Institution or official to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.³

Article 27 - Review of operation

The Committee shall review its implementation of the Code after two years of operation and shall inform the European Ombudsman of the results of its review.

³ Decision of the European Parliament on the Regulations and General Conditions governing the performance of the Ombudsman's duties, OJ L 113/1, 4.5.1994.